

**Child and Family Services Agency****Notice of Proposed Rulemaking**

The Director of the Child and Family Services Agency ("CFSA"), acting pursuant to § 2(o) of the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001, D.C. Law 13-277, D.C. Official Code § 4-1303.03(a-1), (10), (12) and § 4 of the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986, D.C. Law 6-139, D.C. Official Code § 7-2103, hereby gives notice of her intent to amend 29 DCMR Ch. 60, "Foster Homes", by amending §§ 6003.1, 6008.6, 6009.5, 6027.7, 6029, 6030.1, 6030.2 and 6099. The amendments will permit the renewal of a license to operate a foster home under certain conditions after one year and require a re-evaluation of each foster home and foster parent every two years.

The Director of CFSA also gives notice of her intent to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

29 DCMR Ch. 60 is amended as follows.

*§ 6003.1(m) is amended to read:*

6003.1        The agency shall:

...

(m) (1) Re-evaluate the foster parent and foster home every two years in accordance with §6029 of this chapter, and whenever there are changes that may affect:

(i) The health, safety or well-being of the child; or

(ii) The foster home; and

(2) Recommend either renewal, suspension, or revocation of the license as appropriate;

*§ 6008.6 is amended to read:*

6008.6        A criminal records check shall be performed once every two (2) years as part of the re-evaluation and license renewal.

*§ 6009.5 is amended to read:*

6009.5        A child protection register check shall be performed on any household member eighteen (18) years of age or older once every year.

*§ 6027.7 is amended to read:*

- 6027.7 A license shall renew for one (year) from the date of the license, unless sooner revoked, suspended or renewed, if there is:
- (a) Documentation of completed in-service training in accordance with § 6026.5;
  - (b) A satisfactory criminal records check for each resident of the foster home who is eighteen (18) years of age or older in accordance with § 6008;
  - (c) A satisfactory child protection register check for each resident of the foster home who is eighteen (18) years of age or older in accordance with § 6009;
  - (d) A clean hands certification signed by the foster parent within ninety (90) days preceding the expiration date of the current license;
  - (e) Documentation from a physician that the foster parent and any other household member eighteen (18) years of age or older has had a complete medical examination within twenty-four (24) months (including a tuberculosis screening) and has no medical conditions that would contraindicate the foster parent's appropriateness to serve as a foster parent;
  - (f) Documentation from a physician, for every household member under eighteen (18) years of age who is not a foster child, that the household member has had a complete medical examination consistent with the standards for the Early Periodic Screening and Diagnostic Testing (EPSDT) schedule (including up-to-date immunizations, a tuberculosis screening, and, if the household member is under six (6) years of age, a blood lead screening); and
  - (g) A current vaccination record for every pet in the foster home.

*§ 6029 is amended to read:*

**6029 RE-EVALUATION AND LICENSE RENEWAL**

- 6029.1 The agency shall re-evaluate every two (2) years the ability of each foster parent and foster home to meet the requirements of this chapter of the DCMR.
- 6029.2 Re-evaluation shall include:

- (a) A thorough inspection of the foster home to assure continued compliance with this chapter of the DCMR;
- (b) At least one (1) interview with the foster parent;
- (c) Collection and review of all documentation required pursuant to § 6029.3;
- (d) Interviews with all social workers assigned to children placed in the foster home during the licensing period. The interviews shall include, but are not limited to:
  - (1) The appropriateness of the individual as a foster parent;
  - (2) The safety and well-being of each foster child in the home;
  - (3) Attachment and bonding among household members;
  - (4) The willingness and ability of the foster parent to comply with CFSA and agency directives;
  - (5) The foster parent's compliance with this chapter of the DCMR;
  - (6) The willingness and ability of the foster parent to meet the foster child's needs; and
  - (7) Engagement of the foster child with the community as measured by school, church, clubs, or civic group activity.
- (e) Review of:
  - (1) The results of any investigation conducted pursuant to this chapter;
  - (2) Any complaints concerning the provision of care; and
  - (3) Cooperation with assigned social workers, teachers, therapists, police, and others involved in the foster child's case; and
- (f) Identification of any additional supports that may be needed by the foster parent.

6029.3 The documentation that shall be reviewed during the re-evaluation shall include:

- (a) Documentation of completed in-service training in accordance with § 6026.5;

- (b) A criminal records check for each resident of the foster home who is eighteen (18 ) years of age or older in accordance with § 6008;
- (c) A child protection register check for each resident of the foster home who is eighteen (18) years of age or older in accordance with § 6009;
- (d) A clean hands certification signed by the foster parent within ninety (90) days preceding the expiration date of the current license;
- (e) Documentation from a physician that the foster parent and any other household member eighteen (18) years of age or older has had a complete medical examination within twenty-four (24) months (including a tuberculosis screening) and has no medical conditions that would contraindicate the foster parent's appropriateness to serve as a foster parent;
- (f) Documentation from a physician, for every household member under eighteen (18) years of age who is not a foster child, that the household member has had a complete medical examination consistent with the standards for the Early Periodic Screening and Diagnostic Testing (EPSDT) schedule (including up-to-date immunizations, a tuberculosis screening, and, if the household member is under six (6) years of age, a blood lead screening); and
- (g) A current vaccination records for every pet in the foster home.

*There are no changes to the remainder of § 6029.*

*§ 6030.1 and .2 are amended to read:*

- 6030.1 If, as a result of an investigation undertaken pursuant to this chapter of the DCMR, or through any other means, CFSA finds evidence of gross incompetence, misconduct in operating the foster home, supported neglect or abuse of children, or any other condition that poses an immediate threat to the health or safety of foster children, CFSA shall immediately:
- (a) Suspend the license;
  - (b) Remove any foster child who remains in the foster home; and
  - (c) Begin steps to revoke the license.
- 6030.2 If, as a result of an investigation undertaken pursuant to this chapter of the DCMR, or through any other means, CFSA finds evidence of any condition that

may pose a threat to the health or safety of foster children if not remedied, CFSA may immediately suspend a license for a period not exceeding thirty (30) days.

*The following definition of "licensing period" is added to 29 DCMR. § 6099 following the definition of "license".*

"Licensing period" – The period during which the foster parent is licensed to provide care to a foster child under this chapter of the DCMR.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within 30 days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sarah R. Kaplan, Assistant General Counsel, Child and Family Services Agency, 400 6<sup>th</sup> Street, S.W., Washington, DC 20024. Copies of these proposed rules may be obtained without charge at this address.

## DEPARTMENT OF HEALTH

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 43 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the proposed rules is to further expand the areas of practice by dental hygienists while under the direct supervision of a licensed dentist.

**Chapter 43 (Dental Hygiene) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:**

**4310           FUNCTIONS OF DENTAL HYGIENISTS**

**Section 4310.2 is amended to read as follows:**

4310.2           In addition to the functions listed in § 4310.1, a dental hygienist may perform the following functions under the direct supervision of a licensed dentist, as authorized by § 102(4)(A)(vi) of the Act, D.C. Official Code § 3-1201.02(4)(A)(vi):

- (a)     Administration of local anesthesia with board identified criteria and certification;
- (b)     Administration of nitrous oxide with board identified criteria and certification;

**Section 4310.3 is amended to read as follows:**

4310.3           A dental hygienist shall not perform the following functions:

- (a)     Placement of sutures;
- (b)     Application of cavity liners and bases;
- (c)     Placement of amalgam restorations;
- (d)     Carving amalgam restorations;
- (e)     Finishing amalgam restorations;

- (f) Placement and finishing of composite resin/silicate restorations;  
and
- (g) Placement and removal of matrices.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not less than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

**DEPARTMENT OF HEALTH**

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**NOTICE OF PROPOSED RULEMAKING**

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The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 54 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the amendments is to clarify the requirements for licensure in the District of Columbia; require proof of competency in English for applicants educated in foreign countries; add regulations for licensure by endorsement; add a continuing education requirement to applications for licensure renewal; clarify the scope, duration, and requirements for the supervised practice of students, graduates, and applicants for licensure by endorsement; clarify the scope of practice for registered nurses in the District; add a delegation of nursing interventions section; add a standards of conduct section, and to further ensure the protection and safety of the District's citizens by bringing the regulations in line with the current practices and trends in registered nursing.

**The following rulemaking action is proposed:**

**17 DCMR Chapter 54, REGISTERED NURSING, is amended in its entirety to read as follows:**

**CHAPTER 54 REGISTERED NURSING****5400 GENERAL**

- 5400.1 This chapter shall apply to applicants for and holders of a license to practice registered nursing.
- 5400.2 Chapters 40 (General Rules) and 41 (Administrative Procedures) of this title shall supplement this chapter.

**5401 TERM OF LICENSE**

- 5401.1 Subject to § 5401.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of June 30 of each even-numbered year.
- 5401.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birth date of the holder of the license, or other date



established by the Director.

**5402 EDUCATIONAL REQUIREMENTS**

5402.1 Except as otherwise provided in this chapter, an applicant for a license shall furnish proof satisfactory to the Board in accordance with § 504(n) of the Act, D.C. Official Code § 3-1205.04(n) of the following:

- (a) That the applicant has successfully completed a nursing education program leading to licensure as a registered nurse which was approved by the Board or by a nursing board in the United States or U.S. territory with standards determined by the Board to be substantially equivalent to the standards in the District; or
- (b) That the applicant has successfully completed a basic nursing education program in Canada leading to licensure as a registered nurse which was approved by a Canadian Provincial nursing board with standards determined by the Board to be substantially equivalent to the standards in the District. The applicant shall:
  - (1) Furnish proof satisfactory to the Board in accordance with § 504(n) of the Act, D.C. Official Code § 3-1205.04(n), that the applicant's education and training are substantially equivalent to the requirements of this chapter and the Act; and
  - (2) If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit the translation signed by the translator attesting to its accuracy.

**5403 EDUCATIONAL REQUIREMENTS FOR APPLICANTS EDUCATED IN FOREIGN COUNTRIES**

5403.1 An applicant for a license who completed an educational program in a foreign country, which program was not approved in accordance with § 5402.1, shall furnish proof satisfactory to the Board in accordance with § 504(n) of the Act, D.C. Official Code § 3-1205.04(n) of the following:

- (a) That the applicant's education and training are substantially equivalent to the requirements of this chapter and the Act;
- (b) That the applicant successfully completed the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination by submitting a certificate from CGFNS; and
- (c) That the applicant has spoken and written competency in English by

documenting one of the following:

- (1) Graduation from a nursing program where English was the only language of instruction through the applicant's inclusive dates of attendance;
- (2) Successful completion of the Test of Spoken English (TSE) examination with a passing score of fifty (50);
- (3) Successful completion of the International English Language Testing System (IELTS) examination with a passing score of six and one half (6.5) overall with a spoken band score of seven (7.0); or
- (4) Provide proof that the applicant has completed a total of twelve (12) months of full-time employment in the United States during the two (2) years immediately preceding the date of application.

5403.2 If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit the translation signed by the translator attesting to its accuracy.

#### **5404 LICENSURE BY EXAMINATION**

5404.1 To qualify for a license by examination, an applicant shall:

- (a) Receive a passing score on the National Council Licensure Examination for Registered Nurses (NCLEX-RN) developed by the National Council of State Boards of Nursing, Inc. (NCSBN). The passing score on the NCLEX-RN shall be the passing score established by the NCSBN;
- (b) Meet the educational requirements of this chapter; and
- (c) Meet any other requirements as set forth by the Board.

5404.2 To apply for a license by examination, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2").

- (b) Arrange for a certified transcript of the applicant's academic record and a letter of recommendation from the nurse administrator of the school or college to be sent directly from the educational institution to the Board;
- (c) Sit for the NCLEX-RN examination not later than ninety (90) days following submission of the application. The Board may, in its discretion, grant an extension of the time requirement if the applicant's failure to sit for the examination was for good cause. As used in this section "good cause" includes the following:
  - (1) Serious and protracted illness of the applicant; or
  - (2) The death or serious and protracted illness of a member of the applicant's immediate family.
- (d) Submit any other required documents; and
- (e) Pay all required fees.

5404.3 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

5404.4 If an applicant has not yet taken or passed the NCLEX-RN examination six (6) months after the date the applicant became eligible to sit for the exam, the applicant shall complete a review course approved by the Board and provide proof of having completed the course in order to be eligible to sit for the next available NCLEX-RN examination.

- (a) Graduates of an educational program in registered nursing approved in accordance with § 5402.1 are eligible to sit for the exam upon graduation.
- (b) Graduates of an educational program in registered nursing in a foreign country not approved in accordance with § 5402.1 are eligible to sit for the exam upon completion of the requirements set forth in § 5403.1.

5404.5 If an applicant has not yet taken or passed the NCLEX-RN examination two (2) years after the date the applicant became eligible to sit for the exam, the applicant shall complete a remedial course approved by the Board and provide proof of having completed the course in order to be eligible to sit for the next available NCLEX-RN examination.

5404.6 If an applicant has not yet taken or passed the NCLEX-RN examination three (3) years after the date the applicant became eligible to sit for the exam, the applicant shall complete an additional educational program for practical nursing approved by

the Board and provide proof of having completed the program in order to be eligible to sit for the next available NCLEX-RN examination.

**5405 LICENSURE BY ENDORSEMENT**

5405.1 An applicant is eligible for licensure by endorsement if the applicant is currently licensed as a registered nurse under the laws of a state or territory of the United States; and if the applicant's original licensure in a state or territory was based upon:

- (a) A passing score on a state constructed examination taken prior to 1949;
- (b) A passing score on the State Board Test Pool Examination for nurses taken between January 1949 and February 1982; or
- (c) A passing score on the NCLEX-RN.

5405.2 To apply for a license by endorsement, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall submit a sworn affidavit, under penalty of perjury, with the application stating that he or she does not have a social security number; and
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2");
- (b) Submit a copy of his or her current license with the application;
- (c) Obtain licensure verification from the original state or territory of licensure that the license is current and in good standing:
  - (1) If the license from the original state or territory is not current, an applicant shall obtain verification from a state or territory that the applicant holds a current license in good standing; and
  - (2) The licensure verification form must be sent directly to the Board, by the verifying Board;
- (d) Meet any other requirements as set forth by the Board; and
- (e) Pay all required fees.

5405.3 If the applicant completed an educational program for registered nursing in a foreign

country, which program was not approved in accordance with the requirements set forth in § 5402.1, the applicant shall also demonstrate spoken and written competency in English by providing documentation of one of the following:

- (a) Graduation from a nursing program where English was the only language of instruction throughout the applicant's inclusive dates of attendance;
- (b) Successful completion of the Test of Spoken English (TSE) examination;
- (c) Successful completion of the International English Language Testing System (IELTS) examination with a passing score of six and one half (6.5) overall with a spoken band score of seven (7.0); or
- (d) Provide proof that the applicant has completed a total of twelve (12) months of full-time employment at a health care facility in a state or territory of the United States during the two (2) years immediately preceding the date of application.

5405.4 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, submit the required documents and completed forms, and pay the required fees.

5405.5 Nothing in this section shall be construed to prohibit the Board from utilizing other authorized databases to verify an applicant's current licensure standing in other jurisdictions of the U.S. or to review disciplinary records.

#### **5406 REACTIVATION OF AN INACTIVE LICENSE**

5406.1 A licensee in an inactive status, pursuant to § 511 of the Act, D.C. Official Code § 3-1205.11, shall apply for reactivation of the license by submitting a completed application on the forms required by the Board and paying the required fees.

5406.2 A licensee in an inactive status, pursuant to § 511 of the Act, D.C. Official Code § 3-1205.11, for twelve (12) months or more, who submits an application to reactivate a license shall:

- (a) Submit proof as set forth in § 5409 of having completed twelve (12) hours of continuing education in the licensee's current area of practice for each year the license was in inactive status up to a maximum of twenty-four (24) hours of continuing education. Only continuing education taken in the two (2) years immediately preceding the application date will be accepted; or
- (b) Submit proof of a current license in good standing to practice registered nursing in a state or territory of the United States as set forth in § 5405.

5406.3 A licensee in an inactive status, pursuant to § 511 of the Act, D.C. Official Code §

3-1205.11, for two (2) years or more, who submits an application to reactivate a license shall:

- (a) Submit proof as set forth in § 5409 of having completed twelve (12) hours of continuing education in the licensee's current area of practice for each year the license was in inactive status up to a maximum of twenty-four (24) hours of continuing education. Only continuing education taken in the two (2) years immediately preceding the application date will be accepted;
- (b) Submit proof of completing a re-entry program approved by the Board; or
- (c) Submit proof of a current license in good standing to practice registered nursing in a state or territory of the United States as set forth in § 5405.

#### **5407 REINSTATEMENT OF AN EXPIRED LICENSE**

5407.1 An applicant for reinstatement of a license shall:

- (a) Submit proof as set forth in § 5409 of having completed twelve (12) hours of continuing education in the applicant's current area of practice for each year that the license was expired, up to a maximum of twenty-four (24) hours of continuing education, in the two (2) years immediately preceding the application date;
- (b) Submit a statement of the reason for failure to apply for renewal prior to the expiration date; and
- (c) Meet any other requirements that the Board may set forth to determine whether the license should be reinstated

5407.2 An applicant for reinstatement of a license shall submit the completed application and documents required by the Board and pay the required fees.

5407.3 The Board shall not reinstate the license of an applicant who fails to apply for reinstatement of the license within five (5) years after the license expires. The applicant shall apply, and meet the requirements in existence at that time, for licensure by examination or endorsement.

#### **5408 RENEWAL OF A LICENSE**

5408.1 A licensee shall renew his or her license by submitting a completed application on the forms required by the Board and paying the required fees prior to the expiration of the license.

5408.2 The Board's staff shall mail out applications for renewal at least sixty (60) days prior to the date the license expires.

- 5408.3 A licensee shall have the burden of notifying the Board if a renewal notice is not received.
- 5408.4 A licensee shall notify the Board in writing of a change of home or business address within thirty (30) days after the change.
- 5408.5 A licensee applying for renewal shall submit proof as set forth in § 5409 of completion of twenty-four (24) contact hours of continuing education in the licensee's current area of practice commencing with the renewal period of 2006. Only continuing education hours obtained in the two (2) years immediately preceding the application date will be accepted.
- 5408.6 A licensee applying for renewal of a license who fails to submit proof of having completed the continuing education requirements by the date the license expires may renew the license within sixty (60) days after the expiration by submitting proof pursuant to § 5409 and by paying the required late fees.
- 5408.7 Upon submitting proof and paying the required late fees, the licensee shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documents and fees.
- 5408.8 If a licensee applying for renewal of a license fails to submit proof of completion of the continuing education requirements, or pay the late fee within sixty (60) days after the expiration of the applicant's license, the license shall be considered to have lapsed on the date of expiration and the health care professional shall thereafter be required to apply for reinstatement of an expired license and meet all requirements and fees for reinstatement.
- 5408.9 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew the license after expiration, if the licensee's failure to submit proof of completion of the continuing education requirements or pay the late fee was for good cause. As used in this section "good cause" includes the following:
- (a) Serious and protracted illness of the licensee; and
  - (b) The death or serious and protracted illness of a member of the licensee's immediate family.
- 5408.10 The Board may, in its discretion, waive continuing education requirements for a licensee who submits proof of:
- (a) Serving as a speaker at an approved continuing education program. The presentation shall have been completed during the period for which credit is claimed; or

- (b) Being the author or editor of a published periodical, if the periodical has been published or accepted for publication during the period for which credit is claimed.

5408.11 If a licensee has previously received credit in connection with a particular presentation, the Board shall not grant credit for a subsequent presentation unless the presentation involved either a different subject or substantial additional research concerning the same subject.

#### **5409 CONTINUING EDUCATION**

5409.1 The Board, in its discretion, may approve continuing education programs and activities that contribute to the growth of an applicant in professional and competence in the practice of registered nursing and which meet the other requirements of this section.

5409.2 Continuing education credit may be granted only for programs or activities approved by the Board.

5409.3 The Board shall maintain a list of approved continuing education programs which shall be available to the public during regular business hours and posted on the Department's internet website.

5409.4 A licensee shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to enrolling in a program.

5409.5 At the request of a licensee, or the sponsor of a continuing education program, the Board may approve the following types of continuing education programs if the program meets the requirements of this section:

- (a) An undergraduate course or graduate course given at an accredited college or university;
- (b) A conference, course, seminar, or workshop;
- (c) An educational course offered through the Internet;
- (d) Ten (10) hours of in-service training obtained in the two (2) years immediately preceding the date the license expires; or
- (e) Other programs approved by the Board which meet the requirements of this section.

5409.6 To qualify for approval by the Board, a continuing education program shall meet the following requirements:



- (a) Be current in its subject matter;
- (b) Be developed and taught by qualified individuals; and
- (c) Meet one of the following requirements:
  - (1) Be administered and approved by a registered nurse, nursing organization, or health services organization that is recognized and approved by the Board;
  - (2) Be administered and approved by a health care facility, institution, organization, college, school, or university that is accredited by the Secretary of the United States Department of Education, the Council on Post Secondary Accreditation, or the American Nurses Credentialing Center (ANCC); or
  - (3) Be submitted by the program sponsor(s) to the Board for review no less than three (3) months prior to the date of the presentation, approved by the Board, and have paid the required review fee.

5409.7 A licensee shall submit the following information with respect to each program for which continuing education is claimed, on a form required by the Board:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the name(s) of the instructor(s);
- (c) The date(s) on which the licensee attended the program;
- (d) The hours of credit claimed; and
- (e) Attach a verification form signed and stamped by the program sponsor.

5409.8 The Board shall grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.

5409.9 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) hours of continuing education credit, and each quarter hour of credit shall constitute ten (10) hours of continuing education credit.

#### **5410 SUPERVISED PRACTICE OF STUDENTS**

5410.1 A student may practice registered nursing only in accordance with the Act and this chapter.

5410.2 A student who is fulfilling educational requirements under § 103(c) of the Act, D.C.

Official Code § 3-1201.03(c), may be authorized to engage in the supervised practice of registered nursing without a District of Columbia license.

- 5410.3 Only a registered nurse licensed under the Act, who is an appointed faculty member of the accredited school, college, or university, or a preceptor meeting the qualifications set forth in chapter 56 of this title, shall be authorized to supervise the practice of registered nursing by a student.
- 5410.4 A student who practices pursuant to this section shall only practice at a hospital, long-term care facility, a health facility operated by the District or federal government, a health education center, or other health care facility considered appropriate by the school, college, or university.
- 5410.5 All supervised practice of a student shall take place under general or immediate supervision of a registered nurse.
- 5410.6 A person who has been denied a license, disciplined, convicted of an offense that bears directly upon his or her fitness to be licensed, or who has such an action pending in the District of Columbia or another jurisdiction shall not practice pursuant to this section unless first authorized by the Board in writing.
- 5410.7 A student practicing under this section shall not assume administrative or technical responsibility for the operation of a nursing program, unit, service, or institution.
- 5410.8 A student shall identify himself or herself as such before engaging in the supervised practice of registered nursing. A student shall wear a picture identification badge with lettering clearly visible to the client bearing the name of the student and the position title.
- 5410.9 A student shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.
- 5410.10 The appointed supervising faculty member shall be fully responsible for the practice by a student during the period of supervision and may be subject to disciplinary action for violations of the Act or this chapter by the student.
- 5410.11 The Board may deny an application for licensure by, or take other disciplinary action against, a student who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the student to practice.
- 5411 SUPERVISED PRACTICE OF GRADUATE NURSES**
- 5411.1 A graduate nurse may practice registered nursing only in accordance with the Act and this chapter.

- 5411.2 An individual may be authorized to engage in the supervised practice of registered nursing, as a graduate nurse, without a District of Columbia license if the individual:
- (a) Graduated from a nursing program pursuant to § 5402.1, or has met the requirements set forth in § 5403;
  - (b) Has never taken the NCLEX-RN exam; and
  - (c) Has an initial application pending for licensure by examination in the District of Columbia.
- 5411.3 A person who has been denied a license, disciplined, convicted of an offense that bears directly upon his or her fitness to be licensed, or who has such an action pending in the District of Columbia or another jurisdiction shall not practice pursuant to this section unless first authorized by the Board in writing.
- 5411.4 Within five (5) business days after the application for licensure by exam has been received by the Board's staff, the Board's staff shall, at the request of the applicant, issue a supervised practice letter to the applicant to document that his or her application is pending and that he or she is authorized to practice under the Act and this chapter. The practice letter is not renewable and shall expire:
- (a) Ninety (90) days from the date of issuance; or
  - (b) Upon receipt of written notice from the Board that the application for licensure has been denied, whichever date is the earliest.
- 5411.5 Upon receipt of the practice letter, the graduate nurse shall inform employers of the date of expiration of the letter and shall immediately cease professional nursing practice on that date or upon receipt of written notice from the Board that the application for licensure has been denied, whichever date is the earliest. The graduate nurse thereafter may practice in a non-professional healthcare occupation, until receipt of a license or issuance of a license number.
- 5411.6 Only a registered nurse licensed under the Act, who is a supervisor, shall be authorized to supervise the practice of registered nursing by a graduate nurse.
- 5411.7 All supervised practice of a graduate nurse shall take place under general or immediate supervision.
- 5411.8 A graduate nurse who practices pursuant to this section shall only practice at a hospital, long-term care facility, a health facility operated by the District or federal government, academic institution, or other health care facility considered appropriate and approved by the Board.
- 5411.9 A graduate nurse shall not be eligible to practice registered nursing in any of the

following settings:

- (a) Correctional Facility;
- (b) Dialysis Center;
- (c) Home Health Agency;
- (d) Community Residential Facility;
- (e) Nursing Staffing Agency;
- (f) Medical Group Practice;
- (g) School, (as a school nurse); and
- (h) Any other setting that does not meet the requirements of § 5411.8.

- 5411.10 A graduate nurse practicing under this section shall not assume administrative or technical responsibility for the operation of a nursing program, unit, service, or institution.
- 5411.11 A graduate nurse shall identify himself or herself as such before engaging in the supervised practice of registered nursing. A graduate nurse shall wear a picture identification badge with lettering clearly visible to the client bearing the name of the graduate nurse student and the position title.
- 5411.12 A graduate nurse shall not receive compensation of any nature, directly or indirectly, from a client or client's family member, except for a salary based on hours worked under supervision.
- 5411.13 The supervisor shall be fully responsible for the practice by a graduate nurse during the period of supervision and may be subject to disciplinary action for violations of the Act or this chapter by the graduate nurse.
- 5411.14 The Board may deny an application for licensure by, or take other disciplinary action against, a graduate nurse who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the graduate nurse to practice.
- 5412 SUPERVISED PRACTICE OF APPLICANTS FOR LICENSURE BY ENDORSEMENT**
- 5412.1 An applicant may practice registered nursing only in accordance with the Act and this chapter.

- 5412.2 An applicant for licensure by endorsement may be authorized to engage in the supervised practice of registered nursing in the District of Columbia without a District of Columbia license if the applicant:
- (a) Is currently licensed as a registered nurse under the laws of a state or territory of the United States;
  - (b) Is a graduate of a program approved in accordance with § 5402.1, or can demonstrate competency in English pursuant to § 5405.3; and
  - (c) Has an initial application pending for licensure by endorsement in the District of Columbia.
- 5412.3 A person who has been denied a license, disciplined, convicted of an offense that bears directly upon his or her fitness to be licensed, or who has such an action pending in the District of Columbia or another jurisdiction shall not practice pursuant to this section unless first authorized by the Board in writing.
- 5412.4 Within five (5) business days after the application for licensure by endorsement has been received by the Board's staff, the Board's staff shall issue a practice letter to the applicant to document that his or her application is pending and that he or she is eligible to practice under the Act and this chapter. The practice letter is not renewable and shall expire:
- (a) Ninety (90) days from the date of issuance; or
  - (b) Upon receipt of written notice from the Board that the application for licensure has been denied, whichever date is the earliest.
- 5412.5 Upon receipt of the practice letter, the applicant shall inform employers of the date of expiration of the letter and shall immediately cease professional nursing practice in the District on that date or upon receipt of written notice from the Board that the application for licensure has been denied, whichever date is the earliest. The applicant thereafter may practice in a non-professional healthcare occupation, until receipt of a District of Columbia license to practice registered nursing.
- 5412.6 Only a registered nurse licensed under the Act, who is a supervisor, may be authorized to supervise the practice of registered nursing by an applicant.
- 5412.7 All supervised practice of an applicant shall take place under general or immediate supervision.
- 5412.8 An applicant who practices pursuant to this section shall only practice at a hospital, long-term care facility, a health facility operated by the District or federal government, academic institutions; or other health care facility considered appropriate and approved by the Board.

- 5412.9 An applicant shall not be eligible to practice registered nursing in any of the following settings:
- (a) Correctional Facility;
  - (b) Dialysis Center;
  - (c) Home Health Agency;
  - (d) Community Residential Facility;
  - (e) Nursing Staffing Agency;
  - (f) Medical Group Practice;
  - (g) School, (as a school nurse); and
  - (h) Any other setting that does not meet the requirements of § 5412.8.
- 5412.10 An applicant practicing under this section shall not assume administrative or technical responsibility for the operation of a nursing program, unit, service, or institution.
- 5412.11 An applicant shall not receive compensation of any nature, directly or indirectly, from a client or client's family member, except for a salary based on hours worked under supervision.
- 5412.12 The supervisor shall be fully responsible for the practice by an applicant during the period of supervision and may be subject to disciplinary action for violations of the Act or this chapter by the applicant.
- 5412.13 The Board may deny an application for licensure by, or take other disciplinary action against, an applicant who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the applicant to practice.
- 5413 SCOPE OF PRACTICE**
- 5413.1 The practice of registered nursing means the performance of acts requiring substantial specialized knowledge, judgment, and skill based upon the principles of the biological, physical, behavioral, and social sciences in the following:
- (a) The observation, comprehensive assessment, evaluation and recording of physiological and behavioral signs and symptoms of health, disease, and injury, including the performance of examinations and testing and their evaluation for

the purpose of identifying the needs of the client and family;

- (b) The development of a comprehensive nursing plan that establishes nursing diagnoses, sets goals to meet identified health care needs, and prescribes and implements nursing interventions of a therapeutic, preventive, and restorative nature in response to an assessment of the client's requirements;
- (c) The performance of services, counseling, advocating, and education for the safety, comfort, personal hygiene, and protection of clients, the prevention of disease and injury, and the promotion of health in individuals, families, and communities, which may include psychotherapeutic intervention, referral, and consultation;
- (d) The administration of medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia;
- (e) The administration of nursing services including:
  - (1) Delegating and assigning nursing interventions to implement the plan of care;
  - (2) Managing, supervising, and evaluating the practice of nursing;
  - (3) Developing organization-wide client care programs, policies, and procedures that identify the processes to be utilized by nursing personnel to assess, identify, evaluate, and meet the needs of the clients or population served;
  - (4) Developing and implementing an organizational plan for providing nursing services;
  - (5) Implementing an ongoing program to assess, measure, evaluate and improve the quality of nursing care being offered or provided; and
  - (6) Providing an environment for the maintenance of safe and effective nursing care.
- (f) Evaluating responses and outcomes to interventions and the effectiveness of the plan of care;
- (g) Promoting a safe and therapeutic environment;
- (h) The education and training of person(s) in the direct and indirect nursing care of the client;
- (i) Communicating and collaborating with other health care team members and

professionals in the development of the plan of care, management of the client's health care, and the implementation of the total health care regimen;

- (j) Teaching the theory and practice of nursing;
- (k) Acquiring and applying critical new knowledge and technologies to the practice setting; and
- (l) The pursuit of nursing research to advance and enhance the practice of nursing.

5413.2 A registered nurse may provide nursing services, which are beyond the basic nursing preparation for a registered nurse, if the registered nurse has the appropriate education, knowledge, competency, and training to safely perform the services.

5413.3 A registered nurse shall wear a pictured identification badge with lettering clearly visible to a client bearing the name of the registered nurse and the title "Registered Nurse" or "R.N.".

#### **5414 DELEGATION OF NURSING INTERVENTIONS**

5414.1 Only a registered nurse as set forth in the Act and this chapter shall delegate nursing interventions to be performed by trained unlicensed personnel on behalf of the delegating registered nurse. Such delegation shall be in a manner that does not conflict with the Act, this chapter, or with other District and federal laws and regulations which affect the practice of nursing in the District of Columbia.

5414.2 A Supervisor may delegate to a registered nurse the responsibility of directing and assigning nursing interventions to trained unlicensed personnel, once the registered nurse has developed the plan of care and identified those services that can be safely performed by the unlicensed personnel.

5414.3 The delegating registered nurse shall be fully responsible for the adequacy of care provided and shall retain accountability for the nursing task.

5414.4 The delegating registered nurse shall assign and delegate in a manner that protects the health, safety, and welfare of the client and others. The nursing tasks delegated shall:

- (a) Be within the area of responsibility of the nurse delegating the act;
- (b) Be such that, in the judgment of the nurse, it can be properly and safely performed by the unlicensed personnel without jeopardizing the client welfare; and
- (c) Be a task that a reasonable and prudent nurse would find is within the scope of sound nursing judgment.



- 5414.5 When delegating a nursing intervention the nurse shall:
- (a) Assess and evaluate the client's condition, identify the client's specific goals, nursing care needs, and required nursing interventions;
  - (b) Select and identify nursing interventions which do not require unlicensed trained personnel to exercise critical thinking and independent nursing judgment and which do not require either complex or multi-dimensional application of the nursing process; and
  - (c) Select nursing interventions, which frequently recur in the daily care of the client or group of clients, whose results are predictable, whose potential for risk is minimal, and which utilize a standard and unchanging procedure.
- 5414.6 The delegating registered nurse shall be fully responsible for providing supervision to the trained unlicensed personnel. The supervision shall include:
- (a) Instructing the unlicensed personnel in the delegated nursing intervention(s);
  - (b) Monitoring the performance of the delegated nursing intervention(s);
  - (c) Verifying that the delegated nursing intervention(s) has been implemented; and
  - (d) Evaluating the client's response and the outcome of the delegated nursing intervention(s).
- 5414.7 If the delegating registered nurse determines that the trained unlicensed personnel cannot safely perform the nursing intervention, the delegating registered nurse shall not delegate the nursing intervention.
- 5414.8 The following nursing interventions shall not be delegated to trained unlicensed personnel:
- (a) The initial nursing assessment or intervention;
  - (b) The ongoing comprehensive nursing assessment of the client in any setting;
  - (c) Development of the nursing diagnosis;
  - (d) Establishment of the nursing care goal;
  - (e) Evaluation of the client's progress, or lack of progress toward goal achievement;
  - (f) Client counseling and family education, except as it relates to promoting independence in personal care and activities of daily living (ADL's);

(g) Coordination and management of care including triage, collaborating, consulting, and referring;

(h) Providing advice to a client or family member; or

(i) Any nursing task which requires nursing knowledge, judgment, and skill.

5414.9 The Administrator for Nursing Services shall be responsible for establishing the facility's model of nursing practice. The model shall include a mechanism for:

(a) Identifying those individuals, by position title and job description, to whom nursing interventions may be delegated based on education, training, and competency measurements; and

(b) Assisting the delegating registered nurse in verifying the competency of the trained unlicensed personnel prior to assigning nursing interventions.

5414.10 The delegating registered nurse shall retain full responsibility for medication administration as set forth by the Act.

5414.11 A delegating registered nurse may delegate the intervention of administering medication to trained unlicensed personnel in programs for individuals with mental retardation or other developmental disabilities; public schools; and assisted living residential facilities as authorized under D.C. Official Code § 21-1203; D.C. Official Code § 38-632; and D.C. Official Code § 44-109.05.

5414.12 Unless otherwise authorized under this title, a delegating registered nurse shall not delegate to trained unlicensed personnel any nursing acts or interventions relating to medication administration, including:

(a) Calculation of a medication dose;

(b) Administration of the initial dose of a medication;

(c) Administration of a medication by injection route, except for epipen or ejection system as set forth in 17 DCMR § 6111;

(d) Administration of medication by intravenous route;

(e) Administration of medication used for intermittent positive pressure breathing or other methods involving a mechanical device or equipment for medication inhalation treatment;

(f) Administration of medication by way of tube insertion in a cavity of the body; and

(g) Administration of investigational drug treatment and blood or blood products.

5414.13 Trained unlicensed personnel shall practice under general and immediate supervision of a registered nurse.

5414.14 The delegating registered nurse shall determine the required degree of supervision after an evaluation of appropriate factors including:

(a) The stability of the client's condition;

(b) The willingness and ability of the client to be involved in the management of his or her care;

(c) The training, experience, and competency of the trained unlicensed personnel implementing the nursing intervention; and

(d) The nature of the nursing intervention.

5414.15 Trained unlicensed personnel shall identify himself or herself as such at all times when participating in client care. The individual shall wear a pictured identification badge with lettering clearly visible to the client, bearing the name of the individual and his or her position title. The position title shall not in anyway imply that the individual is licensed or a nurse.

5414.16 The delegating registered nurse shall be responsible at all times for all nursing interventions provided by the trained unlicensed personnel to whom it was delegated, and is subject to disciplinary action for any violation of the Act or this chapter in connection with the nursing intervention by the trained unlicensed personnel.

#### **5415 STANDARDS OF CONDUCT**

5415.1 A registered nurse shall adhere to the standards set forth in the "Code of Ethics for Nurses" as published by the American Nurses Association, as they may be amended or republished from time to time.

5415.2 A registered nurse shall respect the client's right to privacy by protecting confidential information unless obligated or allowed by law to disclose the information.

5415.3 A registered nurse shall not accept or perform professional responsibilities which the nurse is not competent to perform.

5415.4 A registered nurse shall not, after accepting an assignment or responsibility for a client's care, and without giving adequate notice to the supervisor so that arrangements can be made for continuation of nursing care by others:

- (a) Unilaterally sever the established nurse-client relationship;
- (b) Leave a client for a length of time, or in a manner, that exposes the client unnecessarily to risk of harm; or
- (c) Leave a nursing assignment.

5415.5 A registered nurse shall know, recognize, and maintain professional boundaries of the nurse-client relationship.

5415.6 A registered nurse shall report unsafe nursing practice by a nurse that he or she has reasonable cause to suspect has exposed or is likely to expose a client unnecessarily to risk of harm as a result of failing to provide client care that conforms to the minimum standards of acceptable and prevailing professional practice. The registered nurse shall report such conduct to the appropriate authority within the facility, or to the Board.

5415.7 A registered nurse shall provide nursing services, without discrimination, regardless of the age, disability, economic status, gender, national origin, race, religion, or health problems of the client served.

#### 5499 DEFINITIONS

5499.1 As used in this chapter, the following terms have the meanings ascribed:

**Act** -- Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 et seq.).

**Administrator for Nursing Services** -- the licensed registered nurse responsible for planning, directing and controlling the operation of nursing service within an agency, health care facility, or setting in which nursing care is being offered or provided.

**Activity of Daily Living (ADL)** -- getting in and out of bed, bathing, dressing, eating, walking, and taking medications prescribed for self-administration.

**Agency** -- any person, firm, corporation, partnership, or other business entity engaged in the business of referring nursing personnel, as employees or independent contractors, to a health care facility for the purpose of rendering temporary nursing services.

**Applicant** -- person applying for a license to practice registered nursing under this chapter.

**Board** -- the Board of Nursing, established by §204 of the Act, D.C. Official Code §

3-1202.04.

**Complex Interventions** – those interventions that require nursing judgment to safely alter standard procedures in accordance with the needs of the client; require nursing judgment to determine how to proceed from one step to the next, or require implementation of the nursing process.

**Delegation** – the transference from the registered nurse to another individual within the scope of his or her practice, the authority to act on behalf of the registered nurse in the performance of a nursing intervention, while the registered nurse retains the accountability and responsibility for the delegated act.

**Educational Program** – a program accredited by a recognized nursing body approved by the Board that leads to a diploma, associate degree, or baccalaureate degree in nursing.

**General Supervision** -- supervision in which the supervisor is available on the premises and within vocal communication either directly or by a communication device at the time the unlicensed personnel, student, graduate nurse, or other licensed nurse is practicing.

**Graduate Nurse** -- an individual who has graduated from a nursing program for registered nursing, who has never taken the NCLEX-RN exam, and whose application for a license by examination in the District of Columbia is pending.

**Health Professional** – a person who holds a license, certificate, or registration issued under the authority of this title or the Act.

**Immediate Supervision**-- supervision in which the supervisor is with the unlicensed personnel, student, graduate nurse, or other licensed nurse and either discussing or observing the person's practice.

**Nursing Intervention** - the initiation and completion of a client focused action necessary to accomplish the goal(s) defined in the client-centered plan of care.

**Practical Nurse** – a person licensed to practice practical nursing under the Act and chapter 55 of this title.

**Registered Nurse** – a person licensed to practice registered nursing under the Act and this chapter.

**Supervisor**-- a registered nurse licensed under the Act who is responsible and accountable for assigning, directing, evaluating and managing a unit, service, or program that offers or provides nursing care and who is responsible for the supervision of trained unlicensed personnel, students, graduate nurses, or other licensed nurses.

**Trained Unlicensed Personnel** – an individual who is not licensed to practice nursing, but has been trained to function in an assistant or subordinate role to the registered or practical nurse in providing nursing care.

5499.2        The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. TT04-1, IN THE MATTER OF THE APPLICATION  
OF VERIZON WASHINGTON, DC, INC. FOR AUTHORITY TO AMEND THE  
LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C.-NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC")<sup>2</sup> in not less than 45 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On March 4, 2004, Verizon DC filed an Application requesting authority to modify the following tariff page:

LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C. No. 203  
Section 31, 2<sup>nd</sup> Revised Page 4

3. Verizon DC's Application proposes to increase the current rates by a \$1.00 for both the Local Package Standard and Local Package.<sup>3</sup> This proposed tariff affects only residential customers in the District. Verizon DC asserts that this tariff filing was submitted in compliance with Price Cap Plan 2002.<sup>4</sup>

4. This Application may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

<sup>1</sup> D. C. Code, 2001 Ed. § 2-505.

<sup>2</sup> *Formal Case No. TT04-1, In the Matter of the Application of Verizon Washington, DC, Inc. For Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C.-No. 203*, Letter to Sanford M. Speight, Acting Commission Secretary, from J. Henry Ambrose, Vice President for Regulatory Matters of Verizon DC, re: Formal Case No. TT04-1, filed March 4, 2004 (hereinafter referred to as "Application").

<sup>3</sup> *Id.*

<sup>4</sup> *Formal Case No. 1005, In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2002 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 12368, rel. April 1, 2003.

5. Comments on the proposed tariff must be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above address. All comments must be received within 45 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 60 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment period has expired, the Commission will take final rulemaking action on Verizon DC's Application.



## DISTRICT DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority of section 3(b) and 5(3)(D) of Department of Transportation Establishment Act of 2002, effective May 21, 2002, D.C. Law 14-137, D.C. Official Code § 50-921; Mayor's Order 2002-102 (June 12, 2002); and the Motor Vehicle Parking Regulation Amendment Act of 1999, D.C. Law 13-97, effective May 9, 2000, hereby gives notice of the intent to amend chapter 24 Title 18 "Vehicle and Traffic Regulations" related to Residential Permit Parking. The amendments will allow the Director to add blocks into the program and will allow the Director to increase or decrease the two-hour grace period under the Residential Parking Program. Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Title 18 DCMR, chapter 24 is amended as follows:

A. By amending § 2411.1 to read as follows:

2411.1 Except as provided in § § 2411.2, 2412, and 2414, parking a motor vehicle on a residential permit parking street within the same zone shall be restricted, as follows:

- (a) To a consecutive two (2) hour period between 7:00 a.m. and 9:00 p.m. Monday through Saturday within the boundaries of Historic Georgetown, and in Ward 5 in the area of 30th Street, N.E., between South Dakota Avenue and Central Avenue, N.E., and Yost Place, N.E., between Vista Street and Bladensburg Road, N.E., between 7 a.m. and midnight; and between 7 a.m. and 8:30 p.m., in all other areas of the District, unless the motor vehicle displays a valid residential permit parking sticker for the designated areas. The residents of specific blocks may petition to change the times for their residential parking permit designation pursuant to § 2411.14.
- (b) The provisions § 2411.1(a) shall apply only to the extent that funds are available to cover the additional costs of personnel and equipment needed to enforce these restrictions.
- (c) Notwithstanding § 2411.1(a), motor vehicles shall have a valid residential permit parking sticker to park at all times in the following locations:

B. By amending § 2411.4(c) to read as follows:

(c) A petition has been submitted to the Director supporting its designation as a residential permit parking street. A petition is not necessary, and the Director may initiate a block for inclusion in the program where:

- (i) There are no residences with addresses on a block which abuts the side or rear of residences included in the program, or on a block which abuts a park or recreational facility;
- (ii) The block to be designated is within 5 blocks of a commercial district or any other private or public facility that accommodates 500 people or more, such as a theatre, concert hall, convention center, stadium, nightclub, university, or any other major traffic generator; or
- (iii) There is less than twenty percent of free curb space available for resident parking.

C. By adding subsection § 2411.19 to read as follows:

2411.19 The following blocks shall be added to the Residential Parking Program pursuant to 2411.4 (c):

**A.**

These blocks in the Northwest Quadrant will be included in the Residential Permit Parking Program and will be restricted where appropriate with "Two Hour Parking, 7A.M. to 8:30 P.M., Monday through Friday, Zone 2 Permit Holders Excepted"

<b>STREET</b>	<b>BLOCKS IN RESIDENTIAL PROGRAM</b>	<b>Side</b>
K Street	200, 300, 400, 500	Both Sides
L Street	400	Both Sides
M Street	1100	Both Sides
Massachusetts Avenue	1100, 1200	Both Sides
N Street	1100, 1200	Both Sides
New York Avenue	300,400	Both Sides
O Street	400	Both Sides
Q Street	400, 500, 600, 700	Both Sides
R Street	500, 600, 700, 800,1000	Both Sides
S Street	600 between 6th and Wiltberger Street	Both Sides
Vermont Avenue	1700	Both Sides
3 <sup>rd</sup> Street	800	Both Sides
4 <sup>th</sup> Street	800, 900, 1000	Both Sides
5 <sup>th</sup> Street	900, 1000	Both Sides
6 <sup>th</sup> Street	900	Both Sides
7th Street	1500	Both Sides
9th Street	1500, 1600	Both Sides

11th Street	1500, 1600	Both Sides
12th Street	1100, 1600	Both Sides
13th Street	1200	Both Sides

**B.**

These blocks in the Northwest Quadrant will be included in the Residential Permit Parking Program and will be restricted where appropriate with "Two Hour Parking, 7A.M. to 8:30 P.M., Monday through Saturday, Zone 2 Permit Holders Excepted"

STREET	BLOCKS IN RESIDENTIAL PROGRAM	SIDE
L Street	500, 600, 900, 1000	South Side
M Street	500, 600, 900, 1000	South Side
N Street	500, 600, 700, 800, 900, 1000	South Side
Naylor Court	1300	All
Massachusetts Avenue	900, 1000	Both Sides
New York Avenue	500, 600	Both Sides
O Street	500, 600, 700, 800, 900, 1000	Both Sides
P Street	500, 600, 700, 800, 900, 1000	Both Sides
5th Street	1000, 1100, 1200, 1300, 1400	Both Sides
6th Street	1000, 1100, 1200, 1300, 1400	Both Sides
7th Street	1000, 1100, 1200, 1300, 1400	Both Sides
8th Street	1300, 1400	Both Sides
9th Street	1000, 1100, 1200, 1300, 1400	Both Sides
10 <sup>th</sup> Street	1000, 1100, 1200, 1300, 1400	
11th Street	1000, 1100, 1200, 1300, 1400	Both Sides

**C.**

These blocks in the Northwest Quadrant will be included in the Residential Permit Parking Program and will be restricted where appropriate with "Two Hour Parking, 7A.M. to 8:30 P.M., Monday through Friday, Zone 1 and 2 Permit Holders Excepted"

S Street	600 blk; between Wiltberger Street and 7th Street, 700, 800	Both Sides
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**D.**

These blocks in the Northwest Quadrant will be included in the Residential Permit Parking Program and will be restricted where appropriate with "Two Hour Parking, 7A.M. to 8:30 P.M., Monday through Friday, Zone 2 and 5 Permit Holders Excepted"

New Jersey Avenue

1300, 1400, 1500, 1600

Both Sides

**E.**

These blocks in the Northwest Quadrant will be included in the Residential Permit Parking Program and will be restricted, where appropriate, with "Zone 2 Permitted Parking Only, 7A.M. to 8:30 P.M., Monday through Saturday."

L Street

500, 600, 900, 1000

North Side

M Street

500, 600, 700, 900, 1000

North Side

N Street

500, 600, 700, 900, 1000

North Side

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Steve Asher, Chief of Staff, Traffic Services Administration, Department of Transportation, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009. Copies of this proposal are available, at cost, by writing to the above address.

**Child and Family Services Agency****Notice of Emergency and Proposed Rulemaking**

The Director of the Child and Family Services Agency ("CFSA"), acting pursuant to § 2(o) of the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001, D.C. Law 13-277, D.C. Official Code § 4-1303.03(a-1), (10), (12) and § 4 of the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986, D.C. Law 6-139, D.C. Official Code § 7-2103, hereby gives notice of her intent to amend Chapter 60 of Title 29 DCMR, "Foster Homes", by adding a new § 6027, by renumbering §§ 6027 through 6031 as §§ 6028 through 6032, respectively, by striking and inserting in its place a defined term in § 6099, and by adding two new defined terms to § 6099. The new section and its accompanying new definitions will permit the issuance of a temporary license to operate a foster home to certain kin.

The emergency that creates the need for this rule change is the immediate need to protect foster children by making possible their expedited placement with kin in studied and licensed foster homes. When a child must be removed from her or his home because of abuse or neglect, the child's immediate health, safety and welfare require the District to locate and place the child as quickly as possible in out-of-home placement that meets the child's specific, individual needs. For many children, kin (whether relatives or unrelated persons with longstanding ties to the child or family) who can bring the child into their home are the placement best suited to meet the child's urgent needs. However, the child's immediate protection also requires that before a child is placed in any out-of-home placement, both the caregiver (kin) and the home be studied and licensed. When the potential caregiver is kin to the child, however, the child's urgent needs can be protected with an initial and temporary licensing process that examines criminal, child protection and health histories, as well as the home itself, permits a temporary license if those are satisfactory, and requires the full panoply of protections set forth in Ch. 62 to be undertaken for a non-temporary license.

The Director of CFSA also gives notice of intent to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The emergency rules will become effective upon publication in the D.C. Register and will remain in effect for 120 days, or until publication of a Notice of Final rulemaking in the D.C. Register, whichever occurs first.

29 DCMR Ch. 60 is amended as follows.

*A new § 6027 is added as follows:*

**6027            TEMPORARY LICENSE FOR KIN**

6027.1           CFSA may issue a temporary license to operate a foster home only if:

(a) The applicant is kin to each foster child who would be placed in her or his

home;

(b) The applicant has submitted an application for a license to operate a foster home;

(c) The applicant has:

- (1) Received a satisfactory criminal records check from the Interstate Identification Index System;
- (2) Applied for a criminal records check in accordance with § 6008 of this Chapter;
- (3) Complied with the requirements of § 6009 of this Chapter concerning the Child Protection Register check;
- (4) Received a satisfactory safety assessment of the prospective foster home; and
- (5) Demonstrated the willingness and ability to provide a safe and secure environment for a foster child.

(d) All individuals eighteen (18) years of age or older residing in the prospective foster home have:

- (1) Received a satisfactory criminal records check from the Interstate Identification Index System;
- (2) Applied for a criminal records check in accordance with § 6008 of this Chapter; and
- (3) Complied with the requirements of § 6009 of this Chapter concerning the Child Protection Register check.

6027.2

An applicant is kin to a foster child if the applicant is:

(a) At least 21 years of age; and

(b) Either:

- (1) Is a relative of the foster child by blood, marriage, or adoption; or

- (2) Is identified by a relative of the foster child by blood, marriage, or adoption, in a sworn affidavit, to have close personal or emotional ties with the foster child or the foster child's family, which pre-dated the foster child's placement with the individual.

6027.3 A temporary license:

- (a) Permits a foster home to operate prior to issuance of an annual license and while the foster parent(s) attempts to satisfy the requirements for a license; and
- (b) Expires in one hundred twenty (120) days from the date of the temporary license, unless renewed.

6027.4 A temporary license may be renewed once and for no more than ninety (90) days if the:

- (1) Applicant is making a good faith effort to comply with all elements of the foster home licensing process as set forth in this Chapter;
- (2) Renewal is needed to complete the licensing process;
- (3) Licensing process is not completed for a reason that is beyond the control of the applicant; and
- (4) Applicant has otherwise complied with the requirements of this Chapter.

6027.5 A temporary licensee under this section shall actively and promptly take all steps required for full licensure under this Chapter.

6027.6 A foster child who is not kin to the applicant may not be placed in a foster home that has a temporary license.

6027.7 Except as specifically set forth in § 6027, all sections of this Chapter shall apply to a foster parent or foster home that has a temporary license.

*The following sections and their subsections are renumbered as follows:*

Current section/subsections	Title	Renumbered as
6027	Licensing process	6028
6028	Denial of license or renewal	6029
6029	Annual re-evaluation and license renewal	6030

6030	Suspension or revocation of license	6031
6031	Appeal procedure	6032

*The definition of "applicant" is struck in its entirety, and the following definition is inserted in its place:*

**6099            DEFINITIONS**

"Applicant" -- the person(s) applying to be licensed as a foster parent, including as appropriate the person applying for a temporary license, under this chapter of the DCMR.

*The following definitions are added to 29 DCMR § 6099 following the definition of "revocation".*

**6099            DEFINITIONS**

"Safety assessment" -- an assessment of an applicant's residence, including but not limited to its general physical environment, sanitation and external environment.

"Temporary license" -- a license to operate a foster home for a temporary period issued to a foster home that has complied with the requirements of § 6027 of this Chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within 30 days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sarah R. Kaplan, Assistant General Counsel, Child and Family Services Agency, 400 6<sup>th</sup> Street, S.W., Washington, DC 20024. Copies of these proposed rules may be obtained without charge at this address.



## BOARD OF EDUCATION

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NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

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The District of Columbia Board of Education ("Board"), pursuant to the authority set forth in D.C. Code, 2001 Edition, Section 38-101 et seq., hereby gives notice of emergency and proposed rulemaking action taken by the Board at its meeting on March 11, 2004. The purpose of this rulemaking is to ensure reasonable vacancy forecasting by the D.C. Public Schools for each upcoming school year. The rulemaking revises the date by which teachers and administrators are required to declare their intent to continue employment.

The emergency is necessitated by the pendency of the end of the school year. The emergency rulemaking took effect following approval by the Board at its meeting of March 11, 2004. It shall expire within 120 days of March 11, 2004, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first. This rulemaking will amend section 1021 of DCMR Title 5. The Board also gives notice of its intent to take final rulemaking action to adopt this emergency and proposed rulemaking in not less than thirty (30) days from the publication of this notice in the D.C. Register.

**Section 1021 is revised as follows:**

## 1021. REAPPOINTMENT

1021.1 Former permanent employees of the Board of Education who separated through voluntary resignation which was accepted without prejudice may be reappointed without an examination if the following conditions are met:

- (a) Application for reappointment is made within five (5) years from the date of resignation;
- (b) Satisfactory performance ratings were received for each of the five (5) years preceding the resignation;
- (c) The applicant satisfies the eligibility requirements for the type of position sought that are in effect at the time of the application for reappointment; and
- (d) The applicant complies with the residency requirements of the Board of Education, as specified in § 1017.

1021.2 Probationary and permanent teachers and administrators who do not intend to continue employment with DCPS the following school year must

submit to the DCPS Office of Human Resources a Declaration of Intent Form no later than ~~May 30~~ April 15.

1021.3 Any probationary or permanent teacher or administrator who fails to submit a Declaration of Intent Form by ~~May 30~~ April 15 of any given school year, and fails to report for duty the following school year, or severs employment prior to the end of the following school year, shall be subject to the following penalties:

(a) Notice to any subsequent employer of violation and sanctions;

~~—(b) Designation as ineligible for rehire for one (1) year;~~

(e) (b) No formal release of information upon inquiry for ninety (90) days;  
and

(d) (c) Recoupment of any incentives or bonuses for the school year of violation.

1021.4 Request for waiver of sanctions by the Superintendent must be submitted to the Superintendent or the Superintendent's designee for consideration. The Superintendent shall consider exigent circumstances, including, but not limited to, personal or family illness, relocation of spouse, damage to professional reputation, safety and/or health risks in the workplace, changed circumstances or professional advancement, as grounds for waiver of sanctions.

1021.5 Any Declaration of Intent, which was submitted prior to ~~May 30~~ April 15 may be withdrawn on or before ~~May 30~~ April 15.

1021.6 Notice of imposition of sanctions by the Superintendent shall be provided to the probationary or permanent teacher or administrator at the time of imposition of sanctions. A request for reconsideration by the Superintendent may be submitted within thirty (30) days of receipt of notice of imposition of sanctions.

Written comments on the emergency and proposed rulemaking are invited from interested citizens. Such comments should be addressed to Mr. Russell Smith, Executive Secretary, D.C. Board of Education 825 North Capitol Street, N.E., Suite 9108, Washington, D.C. 20002. Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH**  
**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption, on an emergency basis, of a new Chapter 19 to Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Home and Community-Based Waiver Services for Persons with Mental Retardation and Developmental Disabilities." These rules establish eligibility requirements and other general standards for participation in the Medicaid Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver). These rules also establish standards governing reimbursement by the Medicaid program for personal care services furnished by Waiver providers. The Waiver will enable the District to provide home and community-based services to individuals aged 18 or over who would otherwise require institutional care in an intermediate care facility for persons with mental retardation.

The Centers for Medicare and Medicaid Services (CMS), formerly the federal Health Care Financing Administration has advised the District that the maintenance and expansion of all approved services to persons served by the Waiver is essential to the continuation of the Waiver. These rules establish the general terms and conditions governing the provision of all Waiver services. Emergency action is necessary for the immediate preservation of the health, safety and welfare of Waiver participants who are in need of Waiver services.

The emergency rulemaking was adopted on March 2, 2004 and became effective on that date. The emergency rules will remain in effect for one hundred and twenty days or until June 30, 2004, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Director also gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Amend Title 29 DCMR by adding the following new Chapter 19 to read as follows:

**CHAPTER 19            HOME AND COMMUNITY-BASED WAIVER SERVICES  
FOR PERSONS WITH MENTAL RETARDATION AND  
DEVELOPMENTAL DISABILITIES**

**1900            GENERAL PROVISIONS**

- 1900.1 The purpose of this chapter is to establish criteria governing Medicaid eligibility for Home and Community-based Waiver Services for Persons with Mental Retardation and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of Waiver services.
- 1900.2 The Waiver is authorized pursuant to section 1915 ( c ) of the Social Security Act, approved by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services (CMS) and shall be effective through November 19, 2007, plus any extensions thereof.
- 1900.3 The Waiver shall be operated by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) under the supervision of the Department of Health, Medical Assistance (MAA).
- 1900.4 Enrollment of persons eligible to receive Waiver services shall not exceed the ceiling established by CMS.

**1901 COVERED SERVICES**

- 1901.1 Services available under the Waiver shall include the following:
- (a) Adaptive equipment, as set forth in section 928 of Title 29 DCMR;
  - (b) Adult companion, as set forth in section 944 of Title 29 DCMR;
  - (c) Attendant care, as set forth in section 927 of Title 29 DCMR;
  - (d) Case management, as set forth in section 940 of Title 29 DCMR;
  - (e) Chore services, as set forth in section 929 of Title 29 DCMR;
  - (f) Day habilitation, as set forth in section 945 of Title 29 DCMR;
  - (g) Dental services, as set forth in section 936 of Title 29 DCMR;
  - (h) Environmental accessibility adaptation services, as set forth in section 926 of Title 29 DCMR;
  - (i) Family training, as set forth in section 942 of Title 29 DCMR;
  - (j) Homemaker services, as set forth in section 938 of Title 29 DCMR;
  - (k) Independent habilitation, as set forth in section 993 of Title 29 DCMR;
  - (l) Nutritional counseling, as set forth in section 930 of Title 29 DCMR;
  - (m) Occupational therapy, as set forth in section 935 of Title 29 DCMR;
  - (n) Personal care services, as set forth in sections 5004 and 1910 of Title 29 DCMR;
  - (o) Personal emergency response system (PERS), as set forth in section 907 of Title 29 DCMR;

- (p) Physical therapy services, as set forth in section 934 of title 29 DCMR;
- (q) Preventive, consultative and crisis support, as set forth in section 937 of Title 29 DCMR;
- (r) Prevocational services, as set forth in section 920 of Title 29 DCMR;
- (s) Residential habilitation, as set forth in section 946 of Title 29 DCMR;
- (t) Respite care, as set forth in section 994 of Title 29 DCMR;
- (u) Skilled nursing, as set forth in section 933 of Title 29 DCMR;
- (v) Speech, hearing and language services, as set forth in section 932 of Title 29 DCMR;
- (w) Supportive employment, as set forth in section 929 of Title 29 DCMR; and
- (x) Transportation, as set forth in section 943 of title 29 DCMR.

## **1902 ELIGIBILITY REQUIREMENTS**

- 1902.1 An individual eligible to receive Waiver services shall meet all of the following requirements:
- (a) Are eligible for Medicaid benefits and meet all other eligibility criteria applicable to Medicaid recipients, including citizenship and alienage requirements;
  - (b) Be mentally retarded and developmentally disabled;
  - (c) Be eighteen (18) years of age or older;
  - (d) Be a resident of the District of Columbia as defined in D.C. Official Code § 7-1301.03(22); and
  - (e) Have a level of care determination that the individual requires services furnished in an intermediate care facility for persons with mental retardation (ICF/MR).
- 1902.2 Waiver services shall not be furnished to a person who is an inpatient of a hospital, ICF/MR or nursing facility.
- 1902.3 Each individual enrolled in the Waiver shall be re-certified annually as having met all of the eligibility requirements as set forth in subsection 1902.1 for continued participation in the Waiver.

## **1903 PROVIDER QUALIFICATIONS**

- 1903.1 Each prospective provider shall complete an application to participate in the Medicaid program and submit to MAA the following information:

- (a) A description of ownership and a list of major owners or stockholders owning or controlling five percent (5%) or more outstanding shares;
- (b) A list of Board members and their affiliations;
- (c) A roster of key personnel, their qualifications and a copy of their position descriptions;
- (d) Copies of job descriptions, resumes, licenses and certifications of all staff providing services;
- (e) Addresses of all sites where services will be provided to clients;
- (f) A copy of the most recent audited financial statement of the organization;
- (g) A completed provider application;
- (h) A copy of the basic organizational documents of the provider, including an organizational chart and current Articles of Incorporation;
- (i) A copy of the Bylaws or similar documents regarding conduct of the provider's internal affairs;
- (j) A copy of the business license or certificate of good standing;
- (k) A copy of the Joint Commission on Accreditation of Health Care Organization's certification, if required;
- (l) A copy of the Certificate of Need approval, if required;
- (m) A copy of the Certificate of Occupancy;
- (n) Program policies and procedures;
- (o) Staffing ratios, if required; and
- (p) Any other documentation deemed necessary to support the approval as a provider.

- 1903.2 MAA shall notify each prospective provider, in writing, of the approval or disapproval to become a provider of Waiver services, no later than 45 days of receipt of all required documentation. If additional information is requested by MAA, the provider shall have 30 days from the date of the request to submit the additional information. If an application is disapproved, the notice shall set forth the reason for disapproval. Failure to submit all required documentation may result in disapproval.
- 1903.3 Each provider shall enter into a provider agreement with MAA for the provision of Waiver services.
- 1903.4 The provider agreement shall specify the services to be provided, methods of operation, financial and legal requirements, and identification of the population to be served.
- 1903.5 Each provider shall be subject to the administrative procedures set forth in Chapter 13 of Title 29 DCMR during the provider's participation in the program.

- 1903.6 Each provider shall comply with all applicable provisions of District and federal law and rules applicable to the Title XIX of the Social Security Act, and all District and federal law and rules applicable to the service or activity provided pursuant to these rules.
- 1904 INDIVIDUAL HABILITATION PLAN (IHP) OR INDIVIDUAL SERVICE PLAN (ISP)**
- 1904.1 The IHP or ISP shall be developed by the Interdisciplinary Team (IDT) for each client.
- 1904.2 At a minimum, the composition of the IDT team shall include the client, the client's parent, guardian or other individual directly involved in the client's life and the case manager.
- 1904.3 The IHP or ISP shall be reviewed and updated annually by the IDT team. The IHP or ISP may be updated more frequently if there is a significant change in the client's status or any other significant event in the client's life which affects the type or amount of services and supports needed by the client or if requested by the client.
- 1904.4 The IHP or ISP shall contain at a minimum information regarding the client's medical and physical condition in support of the need for services, the type of medical and other services to be furnished regardless of funding source, the amount, frequency and duration of each service and the type of provider to furnish each service.
- 1904.5 A written plan of care shall be developed for each client by MRDDA. The plan of care shall contain all Waiver services to be provided to each client.
- 1904.6 MAA shall not reimburse a provider for services that are not authorized in the IHP or ISP, not included in the written plan of care, furnished prior to the development of the IHP or ISP, not prior-authorized by MRDDA or furnished pursuant to an expired IHP or ISP.
- 1904.7 After notification by MRDDA that a service has been authorized, each provider shall develop a written plan which shall address how the service will be delivered to each client.
- 1904.8 Each provider shall submit to the client's case manager a quarterly review which summarizes the client's condition, progress made toward achieving the desired goals and outcomes and identification and response to any issue relative to the provision of the service.
- 1905 LEVEL OF CARE**

- 1905.1 When an individual is determined to be likely to require a level of care as set forth in section 1902.1(e) of these rules and meets all other eligibility requirements, the individual or his or her authorized representative shall be informed by the case manager, as evidenced by the signed Waiver Beneficiary Freedom of Choice Form of:
- (a) any feasible alternatives under the Waiver; and
  - (b) the choice of either institutional or home and community- based services.
- 1905.2 Each individual who is not given the choice of home or community-based services as an alternative to institutional care in an ICF/MR as set forth in subsection 1909.1, shall be entitled to a fair hearing in accordance with 42 CFR Part 431, Subpart E.
- 1905.3 A registered nurse or qualified mental retardation professional shall perform the initial evaluation of the level of care and make a level of care determination.
- 1905.4 Re-evaluations of the level of care shall be conducted every twelve (12) months or earlier when indicated.
- 1905.5 Each re-evaluation shall be performed by persons with the same educational and professional qualifications as those for persons conducting the initial evaluations.
- 1905.6 Written documentation of each evaluation and re-evaluation shall be maintained for a minimum period of three (3) years, except when there is an audit or investigation, the records shall be maintained until the review has been completed.

## **1906 CLIENT RIGHTS**

- 1906.1 Each provider shall develop and adhere to policies which ensure that each client receiving services has the following rights:
- (a) To be treated with courtesy, dignity and respect;
  - (b) To participate in the planning of his or her care and treatment;
  - (c) To receive treatment, care and services consistent with the IHP and ISP;
  - (d) To receive services by competent personnel who can communicate with the client;
  - (e) To refuse all or part of any treatment, care or service and be informed of the consequences;
  - (f) To be free from mental and physical abuse, neglect and exploitation from persons providing services;



- (g) To be assured that for purposes of record confidentiality, the disclosure of the contents of the client's records is subject to all the provisions of applicable District and federal laws and rules;
- (h) To voice a complaint regarding treatment or care, lack of respect for personal property by persons providing services without fear of reprisal;
- (i) To have access to his or her records; and
- (j) To be informed orally and in writing of the following:
  - (1) Services to be provided, including any limitations;
  - (2) The amount charged for each service, the amount of payment required by the client and the billing procedures, if applicable;
  - (3) Whether services are covered by health insurance, Medicare, Medicaid or any other third party source;
  - (4) Acceptance, denial, reduction, or termination of services;
  - (5) Complaint and referral procedures;
  - (6) The name, address and telephone number of the provider; and
  - (7) The telephone number of the hotline maintained by MRDDA.

1906.2 Each provider shall notify MRDDA and MAA, Office of Disabilities and Aging of any client incidents as set forth in MRDDA's Policy and Procedure entitled "Incident Management System".

1906.3 MRDDA shall notify MAA in writing of any complaints regarding treatment, care and services rendered by Waiver providers.

## **1907 RECORDS AND CONFIDENTIALITY OF INFORMATION**

1907.1 Each provider shall allow appropriate personnel of MAA, MRDDA and other authorized agents of the District of Columbia government and the federal government full access to all records during announced and unannounced audits and reviews.

1907.2 Each provider shall maintain all records, including but not limited to progress reports, financial records, medical records, treatment records, and any other documentation relating to costs, payments received and made, and services provided, for six years or until all audits, investigations or reviews are completed, whichever is longer.

1907.3 Each client's record shall include, but not be limited to, the following information:

- (a) General information including each client's name, Medicaid identification number, address, telephone number, age, sex, name,

and telephone number of emergency contact person, physician's name, address and telephone number and case manager's name and telephone number;

- (b) A copy of the beneficiary freedom of choice form;
- (c) A copy of the current IHP or ISP;
- (d) A record of all services(s) provided, including description and dates of service;
- (e) A record of all prior authorizations for services;
- (f) A record of all requests for change in services;
- (g) A record of the client's initial and annual health history;
- (h) A discharge summary, if applicable; and
- (i) Any other records necessary to demonstrate compliance with all rules and requirements, guidelines and standards for the implementation and administration of this Waiver.

1907.4 Each provider shall secure client treatment records in a locked room or file cabinet and limit access only to authorized employees.

1907.5 The disclosure of treatment information by a provider shall be subject to all provisions of applicable federal and District laws and rules, for the purpose of confidentiality of information.

**1908 INITIATING, CHANGING OR TERMINATING ANY APPROVED SERVICE**

1908.1 The case manager shall be responsible for initiating, changing, or terminating Waiver services for each client in accordance with the IHP or ISP and identifying those clients for whom home and community-based services are no longer an appropriate alternative.

1908.2 The case manager shall notify MAA in writing whenever any of the following circumstances occur:

- (a) Death of a client;
- (b) Hospitalization of a client or any other circumstance in which Waiver services are interrupted for more than seven days;
- (c) The client is discharged or terminated from services; or
- (d) Any other delay in the implementation of Waiver services.

1908.3 Each provider shall notify the client or the client's representative and the case manager, in writing of the intent to terminate services at least fifteen (15) days prior to termination. The written notice shall state the reason for the termination.

1908.4 When the health and safety of the client or provider agency personnel is endangered, the fifteen (15) day advance notice shall not be required. The

provider shall notify the client or client's representative and case manager as soon as possible and a written notice sent on the date of termination.

## **1909 FAIR HEARINGS**

1909.1 Each client shall be entitled to a fair hearing in accordance with 42 CFR 431 and D.C. Official Code § 4-210.01 if the government:

- (a) Fails to offer the client a choice of either institutional care in an ICF/MR or home and community-based waiver services;
- (b) Denies a waiver service requested by the client;
- (c) Terminates, suspends or reduces a waiver service;
- (d) Fails to give a client the provider of his or her choice; or
- (e) Terminates, suspends or reduces Medicaid eligibility.

1909.2 The Department of Human Services shall be responsible for issuing each legally required notice to the client or client's representative regarding the right to request a hearing as required in subsection 1909.1.

1909.3 The content of the notice issued pursuant to subsections 1909.1 and 1909.2 shall comply with the requirements set forth in 42 CFR 431.210 and D.C. Official Code § 4-205.55.

## **1910 PERSONAL CARE SERVICES**

1910.1 Each provider shall comply with standards governing personal care services set forth in §§ 5000 through 5004 and 5006 of Title 29 DCMR.

1910.2 Each provider shall be reimbursed \$13.50 per hour for services rendered by personal care aides.

1910.3 Reimbursement for personal care services shall not exceed sixteen (16) hours per day per client regardless of the Medicaid funding source.

## **1999 DEFINITIONS**

When used in this Chapter, the following terms and phrases shall have the meanings ascribed:

**Client**-An individual who has been determined eligible to receive services under the Home and Community-based Waiver for Persons with Mental Retardation and Developmental Disabilities.

**Individual Habilitation Plan (IHP)**- That plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (DC Law 2-137; D.C. Official Code §7-1304.03).

**Individual Support Plan (ISP)-** The successor to the Individual Habilitation Plan as defined in the court-approved *Joy Evans* Exit Plan.

**Interdisciplinary Team (IDT)-** A group of persons with special training and experience in the diagnosis and habilitation of mentally retarded persons which has the responsibility of performing a comprehensive evaluation of each client and participating in the development, implementation and monitoring of the client's ISP. The IDT team shall also include the client or client's representative.

**Intermediate Care Facility for Persons with Mental Retardation-** Shall have the same meaning as set forth in section 1905(d) of the Social Security Act.

**Mentally retarded-** Shall have the same meaning as set forth in D.C. Official Code § 7-1301.03 (19).

**Qualified mental retardation professional-** Shall have the same meaning as set forth in 42 CFR § 483.430(a).

**Provider-** Any entity that meets the Waiver service requirements, has signed an agreement with MAA to provide those services, and is enrolled by MAA to provide Waiver services.

**Registered Nurse-** A person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202 *et seq*) or licensed as a registered nurse in the jurisdiction where services are provided.

Comments on the proposed rules shall be submitted in writing to Robert T. Maruca, Senior Deputy Director, Medical Assistance Administration, Department of Health, 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, within thirty (30) days from the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the same address.

## DEPARTMENT OF HUMAN SERVICES

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the D.C. Department of Human Services, pursuant to the authority set forth in the section 166 of the Burial Assistance Program Reestablishment Act of 1999, effective April 12, 2000 (D.C. Law 13-91; D.C. Official Code § 4-1001) (2001), and Mayor's Order 2000-13, dated January 21, 2000, hereby gives notice of her intent to adopt, on an emergency basis, this new Chapter 26 of Title 29 DCMR, which rulemaking was adopted by the previous Director on an emergency basis.

These rules enable the District to immediately establish the requirements and guidelines for the Department of Human Services' burial assistance program. In the District, there is an emergency need to assist residents with the high cost of funerals of family members who die without any financial resources. The emergency implementation of these rules enables the District to respond to this critical concern by providing assistance with burial costs of District residents who die with very limited resources.

The emergency rulemaking was adopted on March 3, 2004 and became effective immediately on that date. The emergency rules will expire one hundred and twenty (120) days from the date of adoption, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first.

The Director also gives notice of the intent to take final action to adopt these emergency and proposed rules not less than thirty (30) days from the date of the publication of this notice in the *D.C. Register*.

Title 29 DCMR is amended by deleting chapter 26 in its entirety and inserting in lieu thereof the following:

**CHAPTER 26 BURIAL ASSISTANCE PROGRAM****2600 SCOPE**

2600.1 This chapter establishes the requirements for the Burial Assistance Program (Program), which shall include:

- (a) The process for applying for burial assistance;
- (b) The eligibility criteria for burial assistance;
- (c) The benefit and payment levels for the Program; and
- (d) The appeal procedures for aggrieved applicants.

- 2600.2 The Burial Assistance Program shall not be an entitlement and shall be subject to the availability of appropriations for the Program.
- 2600.3 The Program shall only provide assistance toward the burial and/or cremation costs for qualified District residents through funeral homes that are under contract with the District to receive funds from the Program.
- 2600.4 All payments shall be made directly to the funeral home or provider rendering the services.

**2601 APPLICATION PROCESS**

- 2601.1 Each application for burial assistance shall:
- (a) Submit a written application on a Department "Burial Assistance Application" form and signed by a relative, preferably the next of kin; and
  - (b) Establish that the deceased person is the person for whom assistance is being sought.
- 2601.2 The body of a deceased person shall not have been released to an undertaker at the time of the request for assistance.
- 2601.3 An authorized representative may apply on behalf of the applicant, if the applicant provides a written statement stating why he or she cannot attend an interview in person and provides the name and address of the person authorized to act on the applicant's behalf.
- 2601.4 An authorized representative shall be at least eighteen (18) years of age and have sufficient knowledge of the circumstances of the death to provide the requisite information, or be a person with legal authorization to act on behalf of the applicant.
- 2601.5 Each applicant shall interviewed on the date burial assistance is requested or, if that is not possible, on the following business day.
- 2601.6 Each applicant shall cooperate fully in establishing the deceased's eligibility. This shall include, but not be limited to, providing documentation or collateral proof of:
- (a) Household composition;
  - (b) Income and assets; and

(c) The cost of the funeral.

- 2601.7 The Department shall provide the applicant with a written request specifying the information needed to complete the application and discuss with the applicant how to obtain the information. The application shall be considered complete when all requested information is furnished to the Department.
- 2601.8 The Department shall not request that documentation be provided when it can obtain the information more easily than the person applying for burial assistance, if that determination can be made. The Department may use documents, telephone conversations, personal interviews, collateral sources, reports, correspondence, and conferences to verify the information.
- 2601.9 If the burial is expected to occur within two (2) business days of the date of submission of the completed application, the Department shall take all reasonable steps to process the application timely.
- 2601.10 An application shall be considered abandoned if the applicant has not submitted the required information or contacted the assigned Department worker or supervisor within fourteen (14) days of initial application.
- 2601.11 An application shall not be denied if the applicant is attempting to obtain and furnish the required information, and has informed the Department accordingly.
- 2601.12 The Department shall give each applicant whose application has been denied a clear, concise written statement of the reasons for the denial within three (3) business days of the denial. Each written notice shall also inform the applicant of the right to an administrative review and fair hearing to contest the denial, and the steps the applicant shall take to seek review.

**2602 ELIGIBILITY CRITERIA**

- 2602.1 In order to be eligible for burial assistance, the eligibility criteria set forth in this section shall be met.
- 2602.2 The deceased person shall be a person who was a resident of the District of Columbia immediately prior to his or her death.
- 2602.3 Countable assets shall not exceed eight hundred dollars (\$800).
- 2602.4 A prepaid funeral plan shall not be held by the deceased person nor any other person on behalf of the deceased person.

- 2602.5 The burial or cremation services shall be arranged through a funeral home under contract with the District to provide such service to persons receiving burial assistance.
- 2602.6 The total cost of the burial or cremation including the cost of the burial plot, cremation services and container, casket, preparation of the body, funeral service, transportation of the body to the funeral home and to the cemetery, transportation of family members to the funeral home, grave marker, and ritual and decorative items used at the funeral, grave site or wake shall not exceed two thousand dollars (\$2,000), except in the case of a deceased person who requires an oversized casket.
- 2602.7 The total cost of the burial for a deceased person who requires an oversized casket shall not exceed three thousand dollars (\$3,000).
- 2602.8 The limitations on the total cost of the burial and/or cremation shall not include costs associated with opening and closing the grave.
- 2602.9 The burial shall take place within the Washington Metropolitan Area.
- 2602.10 For purposes of this section, the phrase "countable assets" means:
- (a) The financial accounts (checking and savings) of the deceased person, or his or her spouse, if they were residing together at the time of death, or if the deceased person is a minor child, the parent(s);
  - (b) The net monthly earned and unearned income of the deceased person (or his or her spouse, if they were residing together at the time of death, or if the deceased person is a minor child, the parent(s)) that is received during the thirty (30) days preceding the application for burial assistance, less the Medicaid Medically Needy Income Level, based on the household size;
  - (c) The net final paycheck(s) or unearned income of the deceased person; and
  - (d) Cash available from the deceased person, or his or her spouse, if they were residing together at the time of death of the decedent.
- 2602.11 For purposes of this section, the following are excluded from countable assets:
- (a) Individual Retirement Accounts when not available to the deceased person prior to the funeral;



- (b) Life insurance policies, unless a legally responsible relative is the beneficiary;
- (c) Trust funds when not available to the deceased person prior to the funeral;
- (d) Vehicles;
- (e) Real Property; and
- (f) Other assets not immediately accessible prior to the funeral.

2602.12 For purposes of this section, the phrase "District resident" means:

- (a) A person who is living voluntarily and not for a temporary purpose within the District;
- (b) A person that a District agency places in an institution located in another state; or
- (c) A person who resides in an institution outside the District including, but not limited to, a hospital or nursing facility and he or she retains a home or his or her spouse or parent maintains residence in the District.

**2603 BENEFITS AVAILABLE FOR BURIAL AND CREMATION**

2603.1 When a deceased person meets the eligibility criteria described in section 2602 and an application has been filed and approved as required under section 2601, one (1) of the following shall occur:

- (a) Eight hundred dollars (\$800) shall be paid for burial assistance; or
- (b) Four hundred and fifty dollars (\$450) shall be paid for cremation assistance.

**2604 APPEALS**

2604.1 Each aggrieved applicant shall have the right to appeal a denial of burial or cremation assistance.

2604.2 An applicant shall have the right to request a fair hearing by giving a clear expression, oral or written, that he or she would like the opportunity to present the issue by which he or she is aggrieved to a higher authority.

- 2604.3 The request for a fair hearing shall be accepted by any staff member involved in the eligibility determination process.
- 2604.4 The applicant shall have ten (10) calendar days from the date of the notice described in subsection 2601.12 to file an appeal.
- 2604.5 An administrative review shall be held, unless waived by the applicant, as soon as possible but no later than ten (10) business days following the request for appeal.
- 2604.6 The purpose of the administrative review shall be to ascertain the validity of the Department's position and, if possible, resolve the claim.
- 2604.7 If the applicant is not satisfied with the results of the review or has waived the review, or he or she does not appear at the review, the hearing shall be held as scheduled.
- 2604.8 The hearing shall be held at a time, date, and place designated by the Department.
- 2604.9 During the hearing, an applicant shall have the right to:
- (a) Examine the contents of the case record and all documents and records to be used by the Department at the hearing;
  - (b) Represent himself or herself, or use an authorized representative;
  - (c) Present witnesses; and
  - (d) Question or refute any testimony or evidence presented by the Department, including having the opportunity to confront and cross-examine witnesses.
- 2604.10 The Department shall not be represented by an attorney at the hearing or administrative review, unless the applicant is represented by an attorney.
- 2604.11 Hearings shall be conducted by an impartial official who is designated by the Director.
- 2604.12 The recommendations of the impartial official shall be based solely on evidence and other material introduced at the hearing and in the Department's case file.
- 2604.13 A copy of the hearing official's findings of fact, conclusions of law and recommendations shall be sent to the applicant and his or her authorized or legal representative.

- 2604.14 The Director, or his or her designee, shall make the final decision on all appeals which are binding and shall have immediate effect. A written notice of the decision shall be sent to the applicant and his or her authorized or legal representative.
- 2604.15 The Department will take all reasonable steps to hold a hearing, make a final decision, and where the decision is to grant benefits, provide burial assistance in a timely manner.
- 2604.16 In each case where a decision favorable to the applicant is rendered, the Department shall issue payment within thirty business days after the completion of the administrative review or hearing
- 2604.17 Any applicant who is dissatisfied with a final decision may seek judicial redress by filing in the District of Columbia Appeals a written petition for review within thirty (30) business days following the receipt of the final decision of the Department.
- 2604.18 The applicant shall be informed in writing of his or her right to appeal an adverse final decision of the Department to the District of Columbia Court of Appeals.

**2699 DEFINITIONS**

- 2699.1 When used in this chapter, the following terms shall have the meanings ascribed:

**Department** - the Department of Human Services.

**Director** - the Director of the Department of Human Services.

**Spouse** - the husband or wife of the deceased person.

Comments on the proposed rules shall be submitted in writing to Kate Jesberg, Administrator, Income Maintenance Administration, 645 "H" Street, N.E., Fifth Floor, Washington, D.C. 20002, within thirty (30) days from the date of the publication of this notice in the *D.C. Register*. Copies of these rules may be obtained by writing to the above address.